vated R. Co., 125 N. Y. 164. Access is subject to the public right to make improvements for navigation. *Home for Aged Women* v. *Commonwealth*, 202 Mass. 422. Unless the rule that there is no right of access is limited by the principal case, it is hard to see how the wharf-owner under the Washington theory is much better off than when he owned only the upland. His land and wharf still abut on land to which the state has title.

WITNESSES — PRIVILEGE AGAINST SELF-INCRIMINATION — APPLICATION TO COMPULSORY STATEMENTS OUT OF COURT. — The defendant was indicted under a statute providing that an operator of an automobile, who does damage to persons or property, must report to a police officer his name, address, and license number, and the fact of the injury. The New York Constitution provides that no one shall "be compelled in any criminal case to be a witness against himself." *Held*, that the statute is unconstitutional. *People* v. *Rosenheimer*, 44 N. Y. L. J. 1629 (Ct. Gen. Sess., N. Y. County, Jan. 1911). See NOTES. p. 570.

WITNESSES — PRIVILEGE AGAINST SELF-INCRIMINATION — RIGHT OF WITNESS TO REFUSE ATTENDANCE. — A commissioner was appointed to investigate charges against a borough president. On investigating the same charges the grand jury returned an indictment against the petitioner, who was later subpœnaed to appear before the commissioner to testify respecting the same matters as those charged in the indictment. *Held*, that a motion to vacate the *subpœna* should be granted. *Matter of Phillips*, 70 N. Y. Misc. 8 (Sup. Ct.).

A witness is not ordinarily exempt from being sworn, because incriminating questions are likely to be asked him. *Eckstein's Petition*, 148 Pa. St. 509. But it is useless to make him attend when he may refuse, by reason of his privilege, to disclose any of the matters for which he was called. It would, furthermore, expose him to a needless inference because of his refusal to testify from the stand. If, therefore, his examination is to relate solely to matters tending to incriminate, an order requiring his appearance will be vacated. *Matter of Attorney-General*, 21 N. Y. Misc. 101. But if the court is to grant this order it must be certain that every material question to be asked is within the privilege. *Skinner* v. *Steele*, 88 Hun (N. Y.) 307. The granting or refusal of the order should be at the discretion of the court.

BOOK REVIEWS.

THE CONSTITUTIONAL LAW OF THE UNITED STATES. By Westel Woodbury Willoughby. New York: Baker, Voorhis and Company. 1910. In two volumes. pp. lxxxv, xxx, 1390.

This work is based upon lectures delivered to graduate students in political science at Johns Hopkins University. As it was not prepared for the purely technical purposes of lawyers, it adds to the ordinary topics many which have heretofore had too scanty treatment, for example, "the maintenance of federal authority by *habeas corpus* to state authorities," "the federal control of the form of state government," "full faith and credit clause," "the comity clause," "compacts between the states and between the United States and the states," "expatriation," "the legal status of Indians," "the power of the United States to acquire territory," "the extent of the power of Congress to govern the territories," "military and presidential government of acquired territory," "the distinction between incorporated and unincorporated territories," "citizenship in the territories," "international agreements which do not require the approval of the Senate," "the process of legislation as constitutionally determined," "political questions," "the suability of states," "impeachment,"

"presidential succession," "the powers and duties of the President," "the appointment and removal of officers," "military law," "martial law," "the separation of powers," "conclusiveness of administrative determinations," and "the delegation of legislative power." The discussion of such comparatively untouched subjects causes the work to supplement in a very useful way the earlier books on the same general subject. Yet it should not be inferred that there is any neglect to deal with the more common topics, such as "the supremacy of the Constitution," "principles of constitutional construction," "the division of powers between the United States and its member states," "the Fourteenth Amendment," "federal powers of taxation," "interstate and foreign commerce," and "the obligation of contracts." The whole ground is covered, in fact; and apparently it is covered with good judgment as to the relative space to be assigned to the topics in such a general treatise. The time has come when any one wishing minute knowledge as to taxation, interstate commerce, and the like, must go to special treatises or to the digests, and in recognizing this fact the author has consulted the interests both of lawyers and of the students for whose use the work was primarily intended.

A TREATISE ON THE LAW OF TRUSTS AND TRUSTEES. By Jairus Ware Perry. Sixth Edition, by Edwin A. Howes, Jr. In two volumes. Boston: Little, Brown and Company. 1911. pp. clxvii, 1642.

Of the American treatises on the subject of trusts, that by Perry is undoubtedly the most extensively used by lawyers and the most frequently cited by the courts. In the sixth edition, which has just appeared, the editor has brought the authorities down to date, citing about twenty-seven hundred new cases as well as the recently enacted or revised statutes of England and the several states relating to the subject. He has also rewritten the footnotes which were inserted in the fifth edition, which appeared a dozen years ago, and he has added many new notes. In the sixth as in the fifth edition practically no changes have been made in the text. The result is that the footnotes, though sometimes merely amplifying or explaining the text, are often contradictory to it. This method of treatment is rather unsatisfactory. Though there are parts of Perry's treatise which are admirable and which might be called classic, which perhaps deserve to survive unchanged by the hand of the reviser, yet there are also passages which are vague or inaccurate and which it would seem might better have been rewritten.

The footnotes added by the editor of the present edition are for the most part clear and convincing and add considerably to the value of the book. Particularly good are those dealing with matters relating to deposits in savings banks in the name of the depositor as trustee for another (p. 84), and with the right of the *cestui que trust* to follow the trust *res* into its product (p. 1359).

Among the other matters treated at some length in the new footnotes are the questions of voluntary settlements in trust (p. 110); trusts created by precatory words (p. 149); duties owing to the *cestui que trust* by a depositary of trust funds (p. 177); bequests intended to be on trust but as to which no trust is declared in the will (p. 246); constructive trusts in cases where a deed or devise is procured by fraud or by a promise which is subsequently broken (p. 289); purchase of the trust *res* by the trustee (p. 316); purchase of land in his own behalf by one who has orally agreed to purchase for another (p. 346); the doctrine of *lis pendens* (p. 371); non-exclusive powers and illusory appointments (p. 436); the extent of the estate taken by a trustee (p. 532); restraints upon alienation (p. 628); the liability of a trustee to the *cestui que trust* for acts of co-trustees (p. 667), for misuse of trust funds (p. 690), and for acts of agents (p. 711); the liability of a trustee to third persons